

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**T.R.,**

**Plaintiff,**

**v.**

**No. 20-cv-0276 GBW/SMV**

**PATRICK HOWARD and  
LAS CRUCES PUBLIC SCHOOLS,**

**Defendants.**

**ORDER GRANTING STAY**

THIS MATTER is before the Court on Defendants' Motion to Extend Protective Order and Request to Stay Proceedings Pending Resolution of Parallel Criminal Prosecution or, in the Alternative, for a Stay of Discovery, [Doc. 9], filed on July 13, 2020. Plaintiff responded on July 17, 2020. [Doc. 10]. Defendants replied on August 3, 2020. [Doc. 11]. With leave of Court, Plaintiff filed a surreply on August 31, 2020. [Doc. 17]. Having considered the relevant portions of the record in this case and the two related cases, discussed *infra*, as well as the relevant law, the Court will GRANT the stay.

Defendants request a stay of the present case during the pendency of the related criminal proceeding against Defendant Howard. In considering the appropriateness of a stay, the Court weighs the following factors:

(1) [T]he extent to which the issues in the criminal case overlap with those presented in the civil case; (2) the status of the case, including whether the defendants have been indicted; (3) the interests of the plaintiffs in proceeding expeditiously weighed against the prejudice

to plaintiffs caused by the delay; (4) the private interests of and burden on the defendants; (5) the interests of the courts; and (6) the public interest.

*Hilda M. v. Brown*, No. 10-cv-02495 PAB/KMT, 2010 U.S. Dist. LEXIS 137869, at \*9, 2010 WL 5313755, at \*3 (D. Colo. Dec. 20, 2010); *see also Flynn v. City of Las Cruces*, No. 15-cv-0195 KG/WPL, 2015 U.S. Dist. LEXIS 192144, at \*4, 2015 WL 13643322, at \*1 (D.N.M. Nov. 9, 2015) (citing *Hilda M.*). Further, “[w]hen considering a stay in a matter involving parallel criminal and civil proceedings, the primary debate centers on the criminal defendant’s potential waiver or invocation of his Fifth Amendment rights.” *Creel v. Jahani*, No. 09-cv-01063 REB/KMT, 2009 U.S. Dist. LEXIS 117696, at \*7, 2009 WL 4250065, at \*3 (D. Colo. Nov. 25, 2009).

In two related cases, counsel agreed to permit limited discovery from Las Cruces Public Schools which would minimize the possible prejudice of a stay to Plaintiff while still maintaining its benefits. *See Ortiz v. Howard*, No. 20-cv-0190 SMV/CG, [Docs. 23, 24, 25, 27]; *V.D. v. Howard*, 20-cv-0549 SMV/GBW, [Doc. 19]. After considering the parties’ agreements and balancing the applicable factors, the Court finds a stay appropriate in this matter at this time.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Defendants’ Motion to Extend Protective Order and Request to Stay Proceedings Pending Resolution of Parallel Criminal Prosecution or, in the Alternative, for a Stay of Discovery [Doc. 9] is **GRANTED**. The case is hereby **STAYED** pending resolution of the criminal case against Defendant Howard,<sup>1</sup> except that limited discovery will be permitted consistent with the Notice of Stipulated Discovery

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<sup>1</sup> Should the criminal trial be substantially delayed, Plaintiff may file a motion to lift the stay.

to Defendant Las Cruces Public Schools filed August 20, 2020 in *Ortiz*, No. 20-cv-0190 SMV/CG, [Doc. 25].

**IT IS SO ORDERED.**



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**